

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MORTON GROVE PHARMACEUTICALS, INC.,)	
)	
Plaintiff,)	No.: 08-CV-1384
)	
v.)	Judge Bucklo
)	Magistrate Judge Mason
THE NATIONAL PEDICULOSIS)	
ASSOCIATION, INC.,)	JURY TRIAL DEMANDED
)	
Defendant.)	
)	

**DEFENDANT THE NATIONAL PEDICULOSIS ASSOCIATION, INC.'S MOTION TO
COMPEL PRODUCTION OF DOCUMENTS
RELATED TO ECOLOGY CENTER SETTLEMENT**

The National Pediculosis Association, Inc. ("NPA"), by its attorneys, hereby moves pursuant to Federal Rule of Civil Procedure 37 for this Court to enter an order compelling plaintiff Morton Grove Pharmaceuticals, Inc. ("Morton Grove") to produce documents related to the Ecology Center settlement.

1. Morton Grove quotes from and touts the Ecology Center settlement in its complaint against NPA. Yet when NPA requested documents reflecting the back-and-forth that led to the settlement, Morton Grove refused saying that they are not relevant and are inadmissible under Federal Rule of Evidence 408.

2. Because Morton Grove used the settlement as a sword, it cannot argue that the settlement documents are not relevant and use the settlement argument as a shield against discovery. Moreover, Rule 408 is not a bar to discovery.

3. The grounds for this motion are more fully set forth in the accompanying memorandum of law and incorporated herein by reference.

WHEREFORE, NPA respectfully requests that the Court enter an order compelling Morton Grove to produce documents related to the Ecology Center settlement within 14 days.

Dated: June 5, 2008

Respectfully submitted,

THE NATIONAL PEDICULOSIS
ASSOCIATION, INC.

By: s/ Debbie L. Berman
One of Its Attorneys

Debbie L. Berman (#67205154)
Amanda S. Amert (#6271860)
Wade A. Thomson (#6282174)
JENNER & BLOCK LLP
330 N. Wabash Avenue
Chicago, IL 60611
Telephone: 312 222-9350
Facsimile: 312 527-0484

CERTIFICATION

I, Wade A. Thomson, attorney for Defendant The National Pediculosis Association, Inc. hereby submit this certification pursuant to Rule 26(c) and Local Rule 37.2 for **Defendant The National Pediculosis Association, Inc.'s Motion to Compel Production of Documents Related to Ecology Center Settlement**. I certify that, as detailed in the accompanying declaration to the memorandum in support of this motion, the parties engaged in good faith attempts to resolve differences but were unable to reach accord. Specifically, on May 13, 2008, I wrote a letter to Morton Grove's counsel explaining NPA's position that Morton Grove could not withhold the settlement documents at issue given its use of the settlement in its Complaint. On May 19, 2008, Ms. Keller responded with a letter stating that the settlement documents were subject to a non-disclosure agreement and that they were "protected by Rule 408" and "not even admissible." On May 21, 2008, Mr. O'Neil and Ms. Keller (on behalf of plaintiff), and April Otterberg and I (on behalf of defendant) participated in a telephonic meet and confer. The parties again discussed their differences, and agreed that they were at an impasse and had satisfied their obligations under Local Rule 37.2.

DATES: June 5, 2008

s/ Wade A. Thomson
Wade A. Thomson